



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,854	05/04/2001	Dennis S. Chrobak	6700-1	9836

21324 7590 06/10/2004

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313

EXAMINER

JOHNSTONE, ADRIENNE C

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/849,854

Applicant(s)

CHROBAK, DENNIS S.

Examiner

Adrienne C. Johnstone

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 8-10.

Claim(s) withdrawn from consideration: 3-7 and 22-24.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Adrienne C. Johnstone
Primary Examiner
Art Unit: 1733

009/849,854

Continuation of 2. NOTE: The proposed addition to the specification paragraph 17, the new abstract still not on a separate sheet "apart from any other text", and the proposed amendment to withdrawn claim 3 (causing withdrawal of the restriction requirement and improperly reciting that the set of rim-engaging surfaces "comprises a thickened portion" at the first end of each of the sidewalls rather than the "thickened" portions forming part of the rim-engaging surfaces as in original specification paragraph 17)(listing of claims not in proper format because the status indicators for claims 3-7 do not indicate their status as withdrawn claims) raise new issues requiring further consideration, and the proposed addition to the specification paragraph 17 and the proposed amendment to withdrawn claim 3 raise the issue of new matter (new language still not supported by original disclosure-see paragraph 5 below).

Continuation of 5. does NOT place the application in condition for allowance because: contrary to applicants' arguments, the recitation in the original disclosure of the -- lobe-like thickened portions -- (30) forming part of the rim-engaging surfaces (12) does not support the generic description of the portions 30 as merely "thickened": throughout the original disclosure these portions were referred to as -- lobe-like --, the profile shape of the tire in general and the portions 30 in particular is disclosed as an important part of the invention (see for example original specification paragraph 17), and therefore one of ordinary skill in the art would not have understood applicants to be in possession of the shape of the portions 30 being merely "thickened" at the time this application was filed. See for example the case law cited in MPEP 2163.05(I) concerning situations where omission of a limitation constituted new matter.

Continuation of 10. Other: Note the attached Examiner-Initiated Interview Summary Record (PTOL-413B).